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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,506	03/25/2004	David L. Haygood	3997-6	5524

23117 7590 06/08/2006

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
AFZALI, SARANG	

ART UNIT	PAPER NUMBER
3729	

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/808,506	HAYGOOD ET AL.	
	Examiner	Art Unit	
	Sarang Afzali	3729	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 March 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *03252004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: METHODS OF MAKING UPHOLSTERY FABRIC TACK STRIPS.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 22-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites a dependency to a cancelled claim 1. This limitation obviously is erroneous and Applicant needs to clarify which claim is claim 22 dependent upon. The examiner can not figure out as if the dependency goes back to claim 12 or 21 or any other intervening claims.

Claim 25 recites the limitation of "step (i)" which seems to be incorrect since this claim is dependent on claim 24 and claim 24 recites step (i-1) and NOT (i).

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 12, 13, 16, and 17 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of US Patent No. 6,857,178 in view of Bush et al. (US 5,613,817).

6. As applied to claim12, although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of '178 Patent does not specifically disclose "having at least one roughened lateral edge". However, Bush et al. teaches the side edges (38 & 40, Fig. 2) of tack strip (22) having roughened lateral edges (burrs) formed during the stamping process of the base portion (col. 4, lines 13-

15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have selected metal ribbon stock of '178 Patent made by a process as taught by Bush et al. in order to utilize a suitable and known means of making a metal ribbon stock.

As applied to claim13, claim 1, step (ii) of '178 Patent teaches the claimed invention.

As applied to claim 16, claim 1, step (ii) of '178 Patent teaches that by removing portions of the thermoplastic sleeve it expose corresponding opposed surface regions of the metal ribbon stock and therefore, it meets the claim limitation of "expose lower surface".

As applied to claim 17, claim 1, step (iii) of '178 Patent teaches protrude outwardly from respective ones of the sleeve windows, therefore teaches the claimed invention.

7. Claim 14 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3 of US Patent No. 6,857,178 in view of Bush et al. Claim 3 of '178 Patent teaches the claimed invention.

8. Claim 15 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 and 4 of US Patent No. 6,857,178 in view of Bush et al. Claim 4 of '178 Patent teaches the claimed invention.

9. Claims 18-21 and 22, as best understood, are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 5 of US Patent No. 6,857,178 in view of Bush et al.

As applied to claims 18 and 19, claim 5, of '178 Patent teaches the claimed invention.

As applied to claims 20, 21, and 22, although the conflicting claims are not identical, they are not patentably distinct from each other because the '178 Patent does not specifically disclose "roughening the at least one lateral edge", "roughening both lateral edges" and "surface-roughening tool".

However, Bush et al. teaches the side edges (38 & 40, Fig. 2) of tack strip (22) having roughened lateral edges (burrs) formed during the stamping process (by a stamping tool) of the base portion (col. 4, lines 13-15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have selected metal ribbon stock of '178 Patent made by a process as taught by Bush et al. in order to provide a suitable and known means of making a metal ribbon stock.

10. Claims 23 and 24, as best understood, are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 5 of US Patent No. 6,857,178 in view of Bush et al. as applied to claim 12 above, and further in view of Schneider, Jr. (H0,000,788).

As applied to claims 23 and 24, claims 1 and 5 of '178 Patent in view of Bush et al. teaches the claimed invention with the exception of "knurl the at least one lateral

edge and each opposed lateral edge of the metal ribbon stock by a surface-roughening tool".

Bush et al. as applied to claim 12 above, teaches the surface roughening tool (stamping tool) but do not explicitly teach the knurl feature.

However, Schneider, Jr. teaches that an adhesion between plastic and metallic members may be formed by roughening or knurling the metal surface interfacing the plastic member (col. 1, lines 19-23) in order to interlock or prevent from sliding between the metal and plastic members (col. 1, lines 60-62). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide '178 Patent with a well-known adhesion means between the plastic and metallic members as taught by Schneider, Jr. in order to prevent movement between the metal ribbon stock and plastic sleeve.

11. Claim 25, as best understood, is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 5 of US Patent No. 6,857,178 in view of Bush et al. and Schneider, Jr. as applied to claim 23 above, and further in view of Anna, Sr., et al. (US 4,853,067).

Claims 1 and 5 of '178 Patent in view of Bush et al. and Schneider, Jr. teaches the claimed invention including the well-known step in the art wherein an adhesive (hot melt glue) is applied to the back of stock strip to prevent the sleeve from slipping off of the tack strip prior to use (col. 1, lines 32-35). Furthermore, Anna, Sr., et al. teach a method of applying foam tape (5, Fig. 2) to the back of a metal tack strip (2, Figs. 1 & 2)

using an adhesive (not shown) in order to protect the upholstering cloth (9, Fig. 3) from the metal tack strip (2, Fig. 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide '178 Patent as modified by Bush et al. and Schneider, Jr. with a well-known adhesion means between the plastic and metallic members as taught by Annas, Sr., et al. in order to prevent movement between the metal ribbon stock and plastic sleeve.

12. Claim 26 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 6 of US Patent No. 6,857,178.

As applied to claim 26, claim 6 of '178 Patent teaches all steps (i), (ii), and (iii) of the claimed invention.

13. Claim 27 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 6 of US Patent No. 6,857,178 in view of Bush et al.

As applied to claim 27, claim 6 of '178 Patent teaches the invention cited with the exception of "having a series of transverse ridges along a lengthwise extent of at least one lateral edge thereof".

However, Bush et al. teaches the ends (34 & 36, Fig. 1) and side edges (38 & 40, Fig. 2) of tack strip (22) having a series of transverse ridges (burrs) formed during the stamping process of the base portion (col. 4, lines 13-15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to

have selected metal ribbon stock of '178 Patent made by a process as taught by Bush et al. in order to utilize a suitable and known means of making a metal ribbon stock.

14. Claims 28 and 29 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 6 of US Patent No. 6,857,178 in view of Bush et al. as applied to claim 26 above, and further in view of Schneider, Jr.

As applied to claims 28 and 29, claims 6 of '178 Patent in view of Bush et al. teaches the claimed invention with the exception of "using a knurling tool to form each opposed edge of metal ribbon stock is knurled so as to have the series of transverse ridges along a lengthwise extents of the metal ribbon stock".

Bush et al. as applied to claim 26 above, teach that the stamping tool forms the series of transverse ridges (Burrs) but do not explicitly teach the tool is a knurling tool.

However, Schneider, Jr. teaches that an adhesion between plastic and metallic members may be formed by roughening or knurling the metal surface interfacing the plastic member (col. 1, lines 19-23) in order to interlock or prevent from sliding between the metal and plastic members (col. 1, lines 60-62). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide '178 Patent with a well-known adhesion means between the plastic and metallic members as taught by Schneider, Jr. in order to prevent movement between the metal ribbon stock and plastic sleeve.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chaiko and Walchle et al. are cited of interest to show that knurling the metal surface interfacing the plastic member is the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarang Afzali whose telephone number is 571-272-8412. The examiner can normally be reached on 7:00-3:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S.A.
SA
5/26/2006

DAVID P. BRYANT
PRIMARY EXAMINER